UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:23-cv-127-KDB-DCK

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THIS MATTER is before the Court sua sponte.

The pro se Plaintiff filed this civil action without paying the filing fee, and sought leave to proceed in forma pauperis. [Doc. 2]. On August 30, 2023, the Court denied the Plaintiff's Application to proceed in forma pauperis without prejudice to pay the filing fee or to file an Amended Application within 21 days. [Doc. 3]. The Plaintiff was cautioned that "[i]f Plaintiff fails to comply with this Order, the Complaint will be dismissed without prejudice and this case will be closed without further notice." [Id. at 2]. The Plaintiff has not paid the filing fee or filed an Amended Application to proceed in forma pauperis and the time to do so has expired.

The Plaintiff appears to have abandoned this action. Therefore, this action will be dismissed without prejudice. See Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for sua sponte dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that:

- This action is **DISMISSED** without prejudice for failure to comply with the Court's August 30, 2023 Order.
- 2. The Clerk of Court is directed to close this case.

Signed: September 29, 2023

Kenneth D. Bell

United States District Judge